

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RALPH COUNTRYMAN,)	3:06-CV-0236-ECR (VPC)
)	
Plaintiff,)	<u>MINUTES OF THE COURT</u>
)	
vs.)	November 29, 2007
)	
BILL DONAT, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: LISA MANN REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Currently pending before the court are two motions: #53, plaintiff's "motion for judgment on the pleadings," and #58, plaintiff's motion for reconsideration. The following procedural history is necessary in resolving these motions.

On August 6, 2007, defendants filed a motion for an extension of time in which to oppose plaintiff's dispositive motion (#47). On August 8, 2007, this court granted defendants' motion (#48). On August 20, 2007, plaintiff opposed defendants' motion for an extension of time and moved to strike the same (#50). Defendants did not oppose plaintiff's motion to strike. On September 29, 2007, plaintiff filed a "motion for judgment on the pleadings," arguing that defendants had failed to oppose his August 20, 2007 motion to strike (#53). Plaintiff pointed out that the failure to oppose a motion means that the party consents to the granting of that motion. *Id.* On October 17, 2007, this court denied plaintiff's motion to strike (#56).

On November 1, 2007, plaintiff filed a motion for reconsideration of this court's October 17, 2007 minute order denying his motion to strike (#58). Plaintiff argues that his motion to strike was unopposed, and therefore, should have been granted. *Id.* Plaintiff contends that the court did not properly address the motion to strike on its merits or acknowledge that it was unopposed. *Id.* Plaintiff notes that this court has previously granted defense motions after plaintiff failed to oppose. *Id.*

#53 Plaintiff's motion for judgement on the pleadings

Plaintiff argues that because defendants failed to oppose his August 20, 2007 motion to strike, defendants have consented to the granting of his motion (#53). Local Rule 7-2 states: "The failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." LR 7-2(d). Thus, plaintiff is correct in his characterization of the rule. However, plaintiff's motion to strike was already moot when filed on August 20, 2007, as this court on August 8, 2007 granted the motion plaintiff wanted stricken. *See* #48.

Although it is not required to do so, in the interests of fairness and because the plaintiff was not given an opportunity to oppose defendants' motion for an extension of time, the court has reviewed its grounds for granting defendants' request for more time. The court again finds that defendants' motion to extend time has merit. On July 27, 2007, the court extended the discovery deadline to August 24, 2007, and the dispositive motion deadline to September 24, 2007 (#46). Defendants required time to complete discovery before responding to plaintiff's motion for summary judgment. This was a reasonable request. The grounds plaintiff put forth in his opposition to defendants' motion to extend time are without proof or merit.

The court notes that courts routinely grant parties extensions of time if the requests are reasonable and there does not appear to be an ulterior motive of delay. Such was the case here. Given the procedural history, the court concludes that when plaintiff filed his August 20, 2007 motion to strike, it was already moot. As such, plaintiff's motion for judgment on the pleadings requesting that this court grant his unopposed motion to strike (#53) is **DENIED**.

#58 Plaintiff's motion for reconsideration

Plaintiff requests that this court reconsider its October 17, 2007 order denying his motion to strike, arguing that because the motion was unopposed, it should have been granted (#58). The court concluded above that plaintiff's motion to strike was moot when filed on August 20, 2007. Plaintiff's motion for reconsideration (#58) is **DENIED**.

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By: _____/s/_____
Deputy Clerk